

the people in the final analysis could be heard. Therefore, Mr. President and members of the Convention, I think this is a wise amendment and should be adopted.

THE CHAIRMAN: Does any other delegate desire to speak in opposition to the amendment?

Delegate Dulany?

DELEGATE DULANY: Mr. Chairman, in answer to the point raised a while ago that there was no control on the power of the courts in this area, I think we have forgotten for a moment that the legislature actually sets the jurisdiction of all these courts. The legislature can amend or withdraw the jurisdiction of one court or the other, and when we are speaking of functional divisions, what we are speaking of are perhaps a probate division or a criminal division or maybe a juvenile division. We are not speaking of the administrative agencies or courts like the Public Service Commission, Workmen's Compensation, or even the Tax Court.

I think in all these areas the legislature will still reserve power, and has the power in any statutory court. In the administration of the district court or the superior court, and in various divisions in the counties that have a lot of judicial activity, the court should retain jurisdiction to set its own policy on setting up separate divisions and I would oppose the amendment.

THE CHAIRMAN: The Chair recognizes Delegate Johnson to speak to the amendment.

DELEGATE JOHNSON: Mr. Chairman, I should like to speak to the amendment in this way: I deem it necessary and important by way of explanation to Delegate Macdonald because I feel that in all probability this motion had something to do with the question that he asked me when I was giving the minority report.

It is my recollection that I introduced an amendment to section 5.08 that said, functional divisions of the superior court may be established in any county as prescribed by rule or by law.

I did this in Committee and I know what happened. Immediately after that another motion was made to amend, to delete, by law, and I believe the amendment to the amendment carried by something like 10 to 8, and then the entire section was adopted.

We did not make this a matter for the minority report because the minority feels

and believes that in all probability the court will create functional divisions where they are needed. However, since every witness, every member of the judiciary, every member of the legislature and every member of the Rules Committee who appeared before our Committee urged that we retain concurrent jurisdiction, I do not think that it is harmful, and it may even be helpful, provided that this may be accomplished by rule or by law.

I believe that the courts will do it by rule. However, since we are writing a document for many, many years to come, hopefully, perhaps there will come a time when the courts will not be quite attuned to the needs of the various divisions, particularly the Court of Appeals. Perhaps they will not fully appreciate or understand the need for a functional division in some far-off county. For that reason, and for the reasons that I have indicated when questioned by Delegate Macdonald, I will support his amendment.

THE CHAIRMAN: Does any other delegate desire to speak in opposition? Delegate Marvin Smith?

DELEGATE M. SMITH: Mr. Chairman, if there is some need in a far-off county, it is not going to have a voice in the General Assembly anymore, that is for certain.

Mr. Chairman, I am reminded on this of the situation that happened in Baltimore City about 30 years ago.

I started out when I was in law school in the office of the Baltimore Criminal Justice Commission and I can recall very well walking in with Mr. Wallace Reed, into southern police station, and one of the people there saying, "Wally, why in the world did they create these second lieutenants, for, what used to be desk sergeants," and Mr. Reed saying, "Well, now, all I can tell you is that the General Assembly in its wisdom saw fit to do it."

Now, Mr. Chairman, what we are here talking about is functional divisions. We are not talking about the jurisdiction of the court. We are not talking about the creation of new courts. We are talking about how the court can best handle its own business, and I submit to you, sir, that the judiciary of the State is going to be much better qualified to know just what its problems are in the matter of judicial administration. That is all we are talking about, in the matter of judicial administration.

THE CHAIRMAN: Does any other dele-